

GOA STATE INFORMATION COMMISSION

'Kamat Towers' Seventh Floor, Patto, Panaji – Goa

Penalty No.27/2017

In

Appeal No.283/SCIC/2016

Ivan Frances Fernandes,
H. No.37/1, Vaddem,
Socorro, Bardez-Goa.

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Appellant.

V/s

The Public Information Officer,
The Then PIO Clen Madura,
Administrator of Comunidade of North Zone,
Mapusa, Bardez –Goa.

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Respondents

DECIDED ON :8/8/2017

O R D E R

1. While disposing the above appeal by order, dated 2/5/2017, this commission has directed the PIO to show cause as to why action as contemplated u/s 20(1) and/or 20(2) of The Right to Information Act 2005 should not be initiated against him.
2. On receipt of the said notice the PIO filed his reply on 4/8/2017, interalia submitting that the PIO has dealt with the said order of the Commission by issuing the information as ordered. The PIO has narrated the sequence of events in his reply and submitted that during the tenure of one Mario Stephen Vaz the office of Comunidade was ransacked and the records were missing.

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According to PIO he was holding additional charge of Mapusa Municipal Council in addition to the administrator. The application of appellant was received by the APIO Smt. Nayan Khalap, who is the acting secretary of Comunidade and that said Nayan did not inform the PIO of the said application u/s 6(1) of the RTI Act. That the PIO came to know of the said application only on receipt of the notice of the FAA pursuant to which he started to obtain the copy of information. According to PIO said Nayan Khalap informed that the said information is not in their office.

That PIO by seeking assistance of the APIO issued memo to clerk u/s 5(4) of the RTI Act and pursuant to the instructions received from the APIO the reply to appellant, that the information was not available, was issued.

It is also the contention of PIO that the notice of hearing of the second appeal by this commission was not received by him as the same was not conveyed to him by APIO. The PIO has also put on record the nature of staff arrangement with said public authority and also the nature of functioning of the same.

While concluding his reply the PIO has stated that he has not intentionally ignored the sanctity of the act and has tried to maintain balance and keep obligation under RTI Act.

The PIO has filed on record the various letters and correspondence entered on the subject. He has also produced the acknowledgement of the appellant 29/6/2017 for having received the information and that he renounces all claim against the PIO in the present matter.

3. I have considered the reply and the submissions of the PIO. I have also perused the correspondence annexed by the PIO to the reply. Considering the same I find that as the PIO was holding additional charge he had no clear period of 30 days available to him for responding u/s 7(1) of the act. Further more the correspondence suggest that the information was sought from the APIO and I find no records to show that the APIO had diligently complied the instructions of the PIO.

I have also perused the acknowledgement of the appellant, dated 29/6/2017 under which he has received the information which was ordered by this commission. The appellant has renounced his claim against the PIO in view of receipt of the information.

4. In the above circumstances I find that the grounds as given by the PIO, for non furnishing of the information in time, as probable and acceptable. The claim of penalty by the appellant has also been withdrawn. Though the issue of penalty is between commission and the PIO, a lenient view

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can be taken considering the set of facts. The PIO has also shown sufficient cause for dropping the proceedings. Hence I find no grounds to invoke the powers u/s 20(1) and/or 20(2) of the act against the PIO.

In the result the notice, dated 2/5/2017 issued by this commission stands withdrawn. Proceedings are dropped.

Notify the Parties.

Pronounced in the open hearing.

Sd/-

(Mr. Prashant S. Prabhu Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa